



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Francis L. Daniel
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

Mr. Robert L. Ingram, Jr.

Registration No. VAR051350

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §62.1-44.15(8a) and §62.1-44.15(8d), between the State Water Control Board and Mr. Robert L. Ingram, Jr., for the purpose of resolving certain violations of environmental law and/or regulations.

SECTION B: Definitions:

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Annual monitoring period" means the period from July 1 to June 30 of the following year.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code §10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Facility" means Ingram Auto Mall, a 14-acre automobile salvage yard located at 2400 East Indian River Road, Norfolk, Virginia, at which used motor vehicles are dismantled for the purpose of selling and recycling used automobile parts and/or scrap metal.
6. "Order" means this document, also known as a Consent Special Order.
7. "Permit" means Virginia Pollutant Discharge Elimination System (VPDES) General Permit No. VAR05 for Storm Water Discharges Associated with Industrial Activity.

8. "Regulation" means 9 VAC 25-151-10 *et seq.* - the VPDES General Permit for Storm Water Discharges Associated with Industrial Activity.
9. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.

SECTION C: Findings of Fact and Conclusions of Law

1. Mr. Robert L. Ingram, Jr. ("Mr. Ingram"), owns and operates the Facility, an automobile salvage yard in Norfolk, Virginia. Storm water discharges from the Facility are subject to the Permit, which was effective July 1, 2004 and expires on June 30, 2009, through Registration No. VAR051350.
2. Mr. Ingram is required to develop and implement a facility storm water pollution prevention plan ("SWP3") according to requirements outlined in Part III and Part IV.B (for Sector M – Automobile Salvage Yards) ("Sector M") of the Permit.
3. Part I.A.1.a. of the Permit requires Mr. Ingram to perform and document quarterly visual examinations of storm water discharges from each of the three storm water outfalls identified in the Permit during a qualifying storm event [as defined by Part I.A.1.(a)(2) the Permit]; and to maintain copies of the quarterly visual examinations with the facility SWP3.
4. Part I.A.1.b and Part IV.C (for Sector M) of the Permit require Mr. Ingram to conduct benchmark monitoring of storm water discharges from the Facility's three permitted storm water outfalls for the presence of four pollutants of concern (total suspended solids, aluminum, iron, and lead) once during each annual monitoring period; record benchmark monitoring results for each outfall on a Discharge Monitoring Report ("DMR"); and maintain the DMRs with the facility SWP3.
5. Mr. Ingram entered into a Special Order by Consent with the Board effective June 2, 2006 ("2006 Order") to resolve deficiencies in, among other things, compliance with the Permit-required SWP3. The Order required a current SWP3, certification of staff training in the components and goals of the SWP3, a corrective action plan and schedule to address spilled oil and other housekeeping deficiencies, and quarterly submittal of the results of routine facility inspections. The Order also required payment of a \$3,700 civil charge, which was received by DEQ on June 30, 2006. Mr. Ingram also satisfied all other requirements of the Order. Accordingly, the Order was terminated effective January 29, 2008.
6. During a DEQ facility inspection on July 18, 2008 DEQ staff documented the following Permit compliance deficiencies with respect to monitoring requirements:
 - a. Reports of the quarterly visual examination of storm water quality for the 1st, 2nd and 3rd Quarters 2007 required by Part I.A.1.a.(2) of the Permit reflected "no discharge" even though qualifying rain events occurred during each quarter and storm water discharges are known to typically occur at the Facility.
 - b. The reports of the quarterly visual examinations of storm water discharges were not maintained with the facility SWP3 as required by Part I.A.1.a.(3) of the Permit.

- c. The quarterly visual examination of storm water discharges for the 1st Quarter 2008 was not conducted during a qualifying rain event as required by Part I.A.1.a.(2) of the Permit.
 - d. Benchmark monitoring of storm water discharges required by Part I.A.1.b of the Permit had not been conducted for the 2005-2006 and 2007-2008 annual monitoring periods.
 - e. The benchmark monitoring for the 2006-2007 annual monitoring period was not recorded on a DMR as required by Part I.A.1.b.(3) of the Permit.
- 7. During the DEQ facility inspection on July 18, 2008 DEQ staff documented Permit compliance deficiencies, with respect to SWP3 requirements, including the following:
 - a. The Facility was not being maintained in such a manner as to minimize the potential of contributing pollutants to storm water discharges as required by Part III of the Permit and Part 5.2 of the SWP3. Specifically, there were pools of spilled fluids and stained soil in the dismantling area and in the vicinity of the vehicle crusher; and there were drip pans and other containers in the area of the crusher uncovered and overflowing with apparent automotive fluids.
 - b. The scrap yard was not being inspected weekly as required by Part III of the Permit and Table 5 of the SWP3.
 - c. The facility SWP3 site map had not been updated since industrial activity at the Facility had been relocated nor did it accurately identify the locations of potential pollutant sources and the locations of major spills as required by Part III.B.2.c (4) and (5) and Part IV.B.1.a (for Sector M) of the Permit.
 - d. The SWP3 did not contain a summary of potential pollutant sources as required by Part III.B.3 and Part IV.B.1.b (for Sector M) of the Permit.
 - e. The SWP3 did not identify areas where potential leaks and spills can occur as required by Part III.B.4 of the Permit.
 - f. The SWP3 did not include a non-storm water certification as required by Part III.D of the Permit.
 - g. The annual comprehensive site compliance evaluation required by Part III.E of the Permit and the Part 6.0 of the SWP3 had not been performed for the 2006-2007 and 2007-2008 annual monitoring periods.
- 8. Mr. Ingram violated Permit conditions Part I.A.1.a., and Part I.A.1.b. as noted in paragraph C.6 of this Order.
- 9. Mr. Ingram violated Permit conditions Part III, III.B.2.c (4) and (5), Part III.B.3, Part III.B.4, Part III.D, Part III.E and, for Sector M, Part IV.B.1.a and Part IV.B.1.b, and SWP3 conditions Part 5.2, Table 5 and Part 6.0 as noted in paragraph C.7 of this Order.
- 10. On August 26, 2008 DEQ issued Notice of Violation ("NOV") W2008-07-T-0002 to Mr. Ingram. The NOV advised Mr. Ingram of the violations of Permit conditions Part I.A.1.a, Part I.A.1.b, Part III, III.B.2.c (4) and (5), Part III.B.3, Part III.B.4, Part III.D, Part III.E and, for Sector M, Part IV.B.1.a and Part IV.B.1.b and SWP3 conditions Part

5.2, Table 5 and Part 6.0 revealed during the inspection conducted by DEQ staff on July 18, 2008.

11. Mr. Ingram responded to the NOV in writing on September 25, 2008 and stated that he had hired a full-time environmental manager for the Facility; had moved the automobile dismantling operation inside a building; had installed a drainage system in the vehicle crusher that will capture all fluids released during crushing operations and hard-pipe them to a holding tank for disposal; had cleaned up all contaminated soil; and was in the process of overall facility cleanup.
12. A visit to the facility by DEQ staff on October 3, 2008 verified the representations noted in paragraph C.11 of this Order. Staff observed that overall facility cleanliness had improved considerably.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15(8a) and (8d), the Board orders Mr. Ingram and Mr. Ingram, in settlement of the violations cited in this Order, agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$7,477 in accordance with the following schedule:
 - a. Within 30 days of the effective date of this Order, payment in the amount of \$2,493.00;
 - b. Following the initial payment of \$2,493.00 as described in the above subparagraph a, within 60 days of the effective date of this Order, payment in the amount of \$2,492.00;
 - c. Following the second payment of \$2,492.00 as described in the above subparagraph b, within 90 days of the effective date of this Order, payment in the amount of \$2,492.00;
 - d. If the Department fails to receive a payment pursuant to the schedule, described in the above subparagraphs a., b. and c., the payment shall be deemed late. If any payment is late, the Department reserves the right to demand in writing full payment of the balance owed by Mr. Ingram, under this Order. Mr. Ingram shall pay such balance within 15 days of receipt of a demand letter from the Department. Any allowance by the Department of a late payment by Mr. Ingram shall not serve as a waiver of the Department's reserved right to accelerate payment of the balance.

Payments shall be made by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Mr. Ingram shall indicate with each civil charge payment that the payment is being made in accordance with the requirements of this Order.



SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Mr. Ingram, for good cause shown by Mr. Ingram, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the above referenced Notice of Violation. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Mr. Ingram admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Mr. Ingram consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mr. Ingram declares he has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2 - 4000 *et seq.*, and the State Water Control Law and he waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Mr. Ingram to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Mr. Ingram shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Mr. Ingram shall show that such circumstances were beyond his control and not due to a lack of good faith or diligence on his part. Mr. Ingram shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Mr. Ingram intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Mr. Ingram. Notwithstanding the foregoing, Mr. Ingram agrees to be bound by any compliance date, which precedes the effective date of this Order.
- 11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Mr. Ingram. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Ingram from his obligation to comply with any statute, regulation, Permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
- 12. By his signature below, Mr. Ingram voluntarily agrees to the issuance of this Order.

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Mr. Robert L. Ingram, Jr.
Consent Special Order
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And it is so ORDERED this 28th day of April, 2009.

Francis L. Daniel
Francis L. Daniel

Mr. Robert L. Ingram, Jr., voluntarily agrees to the issuance of this Order.

By: Robert L. Ingram, Jr.

Date: 12/4/08

Commonwealth of Virginia
City/County of Norfolk

The foregoing document was signed and acknowledged before me this 4th day of December,
2008, by Mr. Robert L. Ingram, Jr.



Durene K. High
Notary Public

My commission expires: January 31, 2009.

APPENDIX A

Mr. Ingram shall:

1. Within 60 days of the effective date of this Order submit to DEQ Tidewater Regional Office, (a) the reports of all facility inspections conducted since July 18, 2008 by or on behalf of Mr. Ingram to ensure compliance with the facility SWP3 and the Permit and (b) a certification that all housekeeping and storm-water management deficiencies noted during the July 18, 2008 compliance inspection, and not otherwise addressed in Mr. Ingram's response of September 25, 2008 (see paragraph C.11 of this Order), have been remedied.
2. Within 60 days of the effective date of this Order submit to DEQ Tidewater Regional Office for review and approval an updated SWP3 that contains all elements required by Part III.B, Part III.D and Part IV.B (for Sector M – Automobile Salvage Yards) of the Permit, that reflects current operations, and that incorporates the recommendations made by DEQ in the report of the July 18, 2008 compliance inspection that was forwarded to Mr. Ingram on August 26, 2008.
3. By July 10, 2009, October 10, 2009, January 10, 2010 and April 10, 2010 submit to DEQ Tidewater Regional Office, reports of all facility inspections and visual examinations of storm water quality conducted by or on behalf of Mr. Ingram to ensure compliance with the facility SWP3 and the Permit during the preceding three-month period. Reports shall include any corrective action taken in response to deficiencies noted during any inspection or examination.
4. Within six months of the effective date of this Order conduct the annual benchmark monitoring of storm water discharges from all three permitted storm water outfalls required by Part I.A.1.b and Part IV.C (for Sector M) of the Permit and submit to DEQ Tidewater Regional Office the Discharge Monitoring Reports ("DMR") recording the results thereof. Should the monitoring cut-off concentration for any pollutant of concern prescribed in Part IV.C (for Sector M) of the Permit be exceeded at any one of the permitted storm water outfalls, Mr. Ingram shall submit a corrective action plan and schedule to reduce the concentration of that pollutant of concern in storm water discharges. Such plan and schedule shall be submitted within 30 days after submitting the DMRs and shall become part of and enforceable under the terms of this Order.
5. Comply with all conditions of the Permit.
6. Mail all submittals and reports required by this Appendix A to:

Mr. Francis L. Daniel, Regional Director
DEQ, Tidewater Regional Office
5636 Southern Blvd.
Virginia Beach, VA 23462